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DMME Announces Proposed Regulation Changes

- Public hearing date set for coal and mineral mining regulations, public participation guidelines; final rule on mineral mining reclamation to become effective -

Richmond, VA – The Department of Mines, Minerals and Energy (DMME) will hold public hearings next month to receive comments on proposed regulations pertaining to certification requirements for coal and mineral miners, regulations governing coal stockpiles and bulk storage and handling facilities and agency public participation guidelines. DMME also announced today the publication of final regulations governing the reclamation of (non-coal) mineral mines.

A public hearing to receive public comments on the proposed amendments to the Board of Coal Mining Examiners Certification Requirements, new regulations governing coal stockpiles and bulk storage and handling facilities, and proposed amendments to DMME public participation guidelines, will be held at 9:30 a.m. on Tuesday, September 23, 2003, at DMME's Big Stone Gap, VA office building. A public hearing on the proposed amendments to the certification requirements for (non-coal) mineral miners will be held at 9:30 a.m. on Thursday, September 25, 2003, at DMME's Charlottesville, VA office building. Summaries of the regulation changes are listed below.

The Board of Coal Mining Examiners Certification Requirements, 4 VAC 25-20, establishes rules by the Board of Coal Mining Examiners (BCME) to ensure that miners are trained and certified to safely perform the duties and responsibilities that come with working on surface and in underground coal mines.

Proposed changes to the regulation include removing the condition from the regulation that required DMME to mail certificate holders notices reminding them of certification dates and

deadlines regarding completion requirements. DMME will continue to notify certificate holders if certificates expire. The examination retake procedure for certification exams given in segments as part of a class is proposed to be changed. A miner would retake any failed “sections” on initial completion of all segments. Provisions addressing reciprocal agreements with other states are being amended to require miners to meet both conditions set forth by the reciprocating party and Virginia-unique requirements such as demonstrating an understanding of applicable sections of the Virginia Coal Mine Safety Act. Underground shot firers would be required to re-certify every five years by providing proof of experience, examination, or continuing education. Underground electrical repairman requirements would exclude performing electrical work at surface locations. Hoisting engineers would be required to re-certify every five years by providing proof that they have been performing hoisting duties in their work or passing a practical exam. Miners would be required to have a practical knowledge of mine gases as part of their gas detection qualification. The regulation is being amended to provide that surface miners without underground mining experience cannot work underground without the required training and knowledge. BCME training and continuing education instructors are to be knowledgeable of or certified in the areas they teach. Instructors teaching certification classes would be required to use applicable specialized equipment to help reinforce their teaching. In addition, students will be able to critique instructor effectiveness.

The new Regulations Governing Coal Stockpiles and Bulk Storage and Handling Facilities, 4 VAC 25-125, are designed to ensure the health and safety of mine workers where heavy equipment is used to handle coal and coal related materials on stockpiles and in other bulk material storage facilities with underlying feeders. They will serve to protect mine workers from potential health and safety hazards through the implementation of equipment use procedures and by controlling the use of heavy equipment around coal and material stockpiles and bulk storage and handling facilities located at coal mine facilities that use underlying coal feeders. Regulation of the safe use of equipment associated with coal stockpiles and bulk storage and handling improves the overall health and safety of miners by ensuring the safe use and maintenance of equipment used in conjunction with underground coal mines while encouraging productive mining.

DMME’s Public Participation Guidelines, 4 VAC 25-10, govern how the regulatory actions of the DMME, the Virginia Gas and Oil Board, the Board of Coal Mining Examiners, and the Board of Mineral Mining Examiners will: (i) respond to petitions for rulemaking; (ii) maintain a regulatory mailing list; (iii) notify and include interested persons in the regulatory development process; and (iv) comply with the requirements for adopting regulations in compliance with the Administrative Process Act. The proposed amendments to the guidelines clarify what promulgating authorities are governed by the Public Participation Guidelines, provide for use of the new fast track regulatory process, provide for electronic notification of interested parties, reference the Virginia Regulatory Town Hall web site, and state that DMME will not accept ex parte communications after a regulation’s public comment period has closed.

The Board of Mineral Mining Examiner’s Certification Requirements for Mineral Miners, 4 VAC 25-35, are designed to provide a pool of qualified and certified mining employees and to ensure that miners are knowledgeable of the practices and processes of mining minerals in a safe and productive manner. Proposed changes include a new requirement that applicants who do not already possess an electrical journeyman’s card must take a written examination for certification

as a mine electrician, regardless of experience. Surface blasters will be required to possess a valid record of three hours of first aid training from an organization using nationally recognized standards or training that meets federal Mine Safety and Health Administration 30 CFR Part 48 regulatory requirements. Presently, the certificate holder is only required to possess a valid MSHA 5000-23 form. References to old Board of Examiners (BOE) certificates are being deleted. These old certificates, issued prior to 1994, all have been replaced with certificates from the Board of Mineral Mining Examiners. Lastly, administrative changes that will allow different forms of payment for certification are being proposed.

Final Reclamation Regulations for Mineral Mining, 4 VAC 25-31, to ensure the most beneficial development of mineral resources and to minimize the effect of mineral mining on the environment, were published by DMME in the Virginia Register of Regulations on August 11, 2003, and are expected to become effective on September 11, 2003. These new regulations will replace the present reclamation regulations, 4 VAC 25-30 Minerals Other Than Coal Surface Mining Regulations. The regulations are being reissued as a new regulation because of extensive formatting changes. The regulations include general requirements for operating mineral mines, permit standards, bonding, performance standards for mineral mining, and enforcement. In the final regulations, the definition of “permitted area” was amended to clarify the use of “boundary” on the mine application map. The fees in the sections on permit fees and annual renewals were changed to reflect changes to the Code of Virginia that increased fees paid by mineral mine operators. In the section on mineral mining plans, a change was made to address public comments concerning potential impacts to the hydrologic balance. The section regarding permit notifications was amended to remove redundant statements. The section related to overburden, refuse, spoil, and waste fills was amended to account for size, location, and the hazard potential of the fill material. The final regulations will help to ensure that mineral mines are reclaimed in a manner supportive of future use.

Public comments on the proposed amendments to the Board of Coal Mining Examiners Certification Requirements and new regulations governing coal stockpiles and bulk storage and handling facilities may be submitted either at the September 23, 2003, public hearing or in writing until 5 p.m., October 11, 2003, to Frank A. Linkous, Division Chief, DMME Division of Mines, 3405 Mountain Empire Road, Big Stone Gap, VA 24219, (276) 523-8226, Fax (276) 523-8239 or TTY/TTD 1-800-828-1120 (VA Relay Center).

Public comments on the proposed amendments to DMME Public Participation Guidelines may be submitted either at the September 23, 2003, public hearing or in writing until 5 p.m., September 28, 2003 to Stephen A. Walz, Department of Mines, Minerals and Energy, Ninth Street Office Building, 8th Floor, 202 North Ninth Street, Richmond, VA 23219, (804) 692-3211, Fax (804) 692-3237 or TTY/TTD 1-800-828-1120 (VA Relay Center).

Public comments on the proposed amendments to the Board of Mineral Mining Examiner’s Certification Requirements for Mineral Miners may be submitted either at the September 25, 2003, public hearing or in writing until 5 p.m., September 28, 2003, to Jeff Stewart, Safety Engineer, Sr., DMME Division of Mineral Mining, Fontaine Research Park, 900 Natural Resources Drive, P.O. Box 3727, Charlottesville, VA 22903, (434) 951-6315, Fax (434) 951-6325 or TTY/TTD 1-800-828-1120 (VA Relay Center).

Public comments on the proposed regulations also may be submitted electronically until the close of the public comment periods through the Virginia Regulatory Town Hall site at <http://www.townhall.state.va.us>. Special accommodations for the disabled will be made available at the hearings on request by contacting the Department of Mines, Minerals and Energy by September 16, 2003, or by calling the TTY/TDD 1-800-828-1120 (VA Relay Center).

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